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MAILED
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OFFICE OF PETITIONS

In re Patent No. 7,613,342 : DECISION ON REQUEST
Bober : FOR
Issue Date: November 3, 2009 : RECONSIDERATION OF
Application No. 09/786,352 : PATENT TERM ADJUSTMENT
Filed: March 13, 2001 : and
Atty Docket No. 1906-0120PUS1 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 2, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred and forty-two (1,242) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and forty-four (1,144) days is **GRANTED to the extent indicated herein.**

It is noted that patentees failed to account for the filing of the notice of appeal on May 19, 2008. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 183 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, May 19, 2008, and ending on the day the non-final Office action was mailed, November 17, 2008. Thus,

the B delay is 829 days ($1,012^1 - 183$). Accordingly, the patent term adjustment is 1,144 days (811 days of A delay + 829 days of B delay - 0 days of overlap - 496 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Deposit account 02-2448 will be charged \$200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and forty-four (1,144) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

¹ The maximum "B" delay period is 1,012 days, with said period beginning, March 14, 2004, and ending December 20, 2006, the day before the date the Request for Continued Examination was filed.

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,613,342 B1

DATED : Nov. 3, 2009

INVENTOR(S) : Bober

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (576) days

Delete the phrase "by 576 days" and insert – by 1,144 days--